

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Morrow Analyst: Gloria McConnell Bill Number: SB 948

Related Bills: See Prior Analysis Telephone: 845-4336 Amended Date: 04/21/03

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/Income of Spouse of Member of Armed Forces Who Dies While in Active Service as a Result of Military, Combat, or Terrorist Action

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 21, 2003.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

Under this bill, all earned income of a spouse of a member of the Armed Forces who dies as a result of certain action would be exempt from income taxes for the year of the member's death and the following three years.

SUMMARY OF AMENDMENT

These April 21, 2003, amendments make changes of a technical nature and add coauthors. The implementation considerations raised in the previous analysis still apply.

For convenience, the implementation considerations, fiscal impact, and economic impact addressed in the previous analysis are restated below. Staff is working with the author's office to resolve the implementation considerations.

POSITION

Pending.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director
Brian Putler

Date
04/28/03

ANALYSIS

IMPLEMENTATION CONSIDERATIONS

California's Personal Income Tax Law (PITL) generally follows federal law. As such, PITL uses many of the definitions used in federal law. This bill would provide different definitions for "a member of the Armed Forces of the United States" and "military, combat, or terrorist action" from those currently provided under state and federal income tax law. In addition, it is unclear what is meant by "earned income." It would ease administration of this bill if the bill used definitions consistent with those used under current law. If modifications to the current definitions are needed to achieve the intent of this bill, staff suggests the bill be amended to make reference to the applicable current law section and then provide a modification to that definition by identifying the specific targeted item to be included or excluded.

- "Armed Forces of the United States" under this bill lists members of the military; however, the list is merely illustrative and is not a limitation. It is unclear which additional military members are included in this definition. Perhaps the definition used for IRC 692, which appears to be more inclusive, could be used for purposes of this bill.
- The definition of "military, combat, or terrorist action" under this bill in some instances is significantly broader than an existing definition and, in other respects, narrower. For example, the law that exempts the income of members who die in a combat zone or as a result of military or terroristic action (IRC § 692) expressly excludes training exercises. For purposes of this bill, combat training exercises would be included. On the other hand, federal law provides exemption for members of the armed forces who die in a "combat zone" and qualified hazardous duty areas. Under this bill, combat zones and hazardous duty are excluded.
- The definition "earned income" under current law has various meanings depending upon the item to which it relates. Earned income may include self-employment income, wages, or compensation, including cash benefits. Consequently, it is unclear whether under this bill "earned income" would include interest earned from financial institution deposits, earnings from dividends and royalties, or earnings from pensions, annuities, and retirement deposit accounts.
- The income exemption under this bill would apply only if the member dies "as a result of a military, combat, or terrorist action." If a member dies while serving in a combat zone, current law would exempt his or her income from tax (IRC § 692). However, it is unclear whether under the same circumstances the spouse's earnings would be exempt under this bill, as the death may not be considered a "result of a military, combat, or terrorist action."

Staff is available to assist the author with any other implementation considerations that may be identified as the bill moves through the legislative process.

FISCAL IMPACT

Departmental Costs

If the bill is amended to resolve the implementation considerations addressed in this analysis, the department's costs are expected to be minor.

ECONOMIC IMPACT

Revenue Estimate

Revenue losses from this bill would be very minor, less than \$10,000 for every 100 deaths of California military personnel.

Revenue Discussion

Due to data limitations and uncertainties regarding future events, revenue losses are based on a per 100 deaths of members of the Armed Forces. For this analysis it is assumed that for every 100 Armed Forces members who die, 75% of those are married and of those married half have spouses who work. Of the spouses who work it is assumed that they have an adjusted gross income (AGI) of \$32,000 a year (median California AGI for 2000). The average tax for a 2000 joint return with an AGI of \$32,000 was \$166. The revenue loss would be on the order of \$6,200 (100 deaths x 75 % married x 50% with working spouse x \$166 average tax revenue loss= \$6,200) for the first tax year.

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